IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2859 OF 2004

Dinkar M. Samant & Ors....Petitioners

Versus

The Bombay Teleworkers Co-op.
Credit Society Ltd., ...Respondents

Ms. Kunda N. Samant with Mr. N.M. Ganguli & Ms.K.G. Poojari
for the petitioner.
Mr. P.G. Karande, for the Respondents.

CORAM: F.I. REBELLO, J.
DATE : 25th October,2004

P.C.:

1. Rule. Heard forthwith.

2. A reference being made the Second Party had filed their claim statement. The First Party employer did not file their clam statement. The learned Tribunal on 20th November, 2003 rejected the reference on the ground that the statement of claim has not been filed.

3. Even if the statement of claim by the First Party had not been filed considering the statement of claim of Second Party which was already on record the Tribunal was bound to proceed by giving an opportunity to the Second Party to lead evidence in the matter of their demands. The issue as to whether the notice under Section 9A subsists or not has to be decided by the Tribunal in the course of the Reference. In the light of that the following order:-

(i) The Award dated 20th November, 2003 is set aside. The matter is remanded back to the Industrial Tribunal to permit the Second Party to lead evidence and thereafter to proceed

according to law.

Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)